

Oregon Administrative Rules

Student Records

581-021-0250

An Educational Agency or Institution's Policy Regarding Student Education Records

(1) Each educational agency or institution shall adopt a policy regarding how the agency or institution meets the requirements of OARs 581-021-0220 through 581-021-0430. The policy shall include:

(a) A description of how the agency or institution annually informs parents and students of their rights, in accordance with OAR 581-021-0260;

(b) A description of how a parent or eligible student may inspect and review education records according to OAR 581-021-0270;

(c) A statement that personally identifiable information will not be released from an education record without the prior written consent of the parent or eligible student according to OAR 581-021-0330, except under one or more of the conditions described in OAR 581-021-0340;

(d) A statement indicating whether the educational agency or institution has a policy of disclosing personally identifiable information under OAR 581-021-0340(1), and, if so, a specification of the criteria for determining which parties are school officials and what the agency or institution considers to be a legitimate educational interest. With respect to students with disabilities, each educational agency or institution shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information;

(e) A statement that a record of disclosures will be maintained as required by OAR 581-021-0400, and that a parent or eligible student may inspect and review that record;

(f) Specification by the educational agency or institution of the types of personally identifiable information the agency or institution has designated as directory information under OAR 581-021-0390;

(g) A statement that the agency or institution permits a parent or eligible student to request correction of the student's education records under OAR 581-021-0300, to obtain a hearing under OAR 581-021-0310(1), and to add a statement to the record under OAR 581-021-0310(3);

(h) A statement that the educational agency or institution, as required by OAR 581-021-0260, annually notifies parents and eligible students of their rights to review and propose amendments to the student's education records;

(i) A statement that the educational agency or institution maintains a permanent record on each student;

(j) A statement that the educational agency or institution will request the social security number of a student and will include the social security number on the permanent student record only if the parent or eligible student complies with the request. The request shall include notification to the parent or eligible student that the provision of the social security number is voluntary and notification of the purposes for which the social security number will be used;

(k) A statement that the educational agency or institution provides for the retention of permanent records in a minimum one-hour fire-safe place in the educational agency or institution, or for keeping duplicate permanent records in a safe depository outside the building;

(l) A statement that the education agency or institution complies with OAR 581-021-0255 on the request for and transfer of student education records; and

(m) A statement that the educational agency or institution has a policy of disclosing personally identifiable information from an education record to an ESD, state regional program, or other educational agency or institution that has requested the records and in which the student seeks or intends to enroll or is enrolled or receives services from. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(2) For purposes of subsection (1)(l) of this rule:

(a) "Private agency" means an agency with which the Department of Education contracts under ORS 343.961; and

(b) "Youth care center" means a center as defined in ORS 420.855.

(3) The educational agency or institution shall state the policy in writing and make a copy of it available on request to a parent or eligible student.

Stat. Auth.: ORS 326.565, 34 CFR 199.6, 34 CFR 300.616

Stats. Implemented: ORS 326.565 & 326.575

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; EB 12-1997(Temp), f. & cert. ef. 8-28-97; ODE 4-1998, f. & cert. ef. 2-27-98; ODE 10-1998, f. & cert. ef. 6-23-98; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0255

Transfer of Student Education Records

(1) Within ten days of a student seeking enrollment in or services from a public or private school including an ESD, or when a student is placed in a state institution other than an institution of postsecondary education, or a private agency or youth care center (hereinafter referred to as the

new educational agency), the new educational agency must notify the public or private school, education service district, institution, agency, or youth care center in which the student was formerly enrolled (hereinafter referred to as the former educational agency), and request the student's education records.

(2) Subject to ORS 339.260, the former educational agency must transfer all requested student education records to the new educational agency no later than 10 days after receiving the request.

(3) The education records transferred to the new educational agency must include any education records relating to the particular student retained by an education service district.

(4) The educational agency must retain originals of student education records for the time periods and under the conditions described in the record retention rule, OAR 166-400-0060, except that originals shall be transferred to a new education agency upon request.

(5) When original records have been transferred to a new educational agency as required in subsection (2) of this rule, readable photocopies of the following documents must be retained by the former educational agency or institution for the time periods and under the conditions as prescribed in the record retention rule, OAR 166-400-0060:

(a) The student's permanent record as defined in subsection (11) of OAR 581-021-0220; and

(b) Such special education records as are necessary to document compliance with state and federal audits.

(6) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, agency, facility or center shall notify the school, institution, agency, facility or center in which the student was formerly enrolled and shall request the student's education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, agency, facility or center receiving a request for a student's education records shall transfer all student education records relating to the particular student to the requesting school, institution, agency, facility or center no later than five days after the receipt of the request.

Stat. Auth.: ORS 326.565, 34 CFR § 99.6

Stats. Implemented: ORS 326.565

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0260

An Educational Agency or Institution's Annual Notification

- (1) Each educational agency or institution shall annually notify parents of students currently in attendance, and eligible students currently in attendance, at the agency or institution of their rights under OAR 581-021-0220 through 581-021-0440.
- (2) The notice must inform parents and eligible students that they have a right to:
 - (a) Inspect and review the student's education records;
 - (b) Request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
 - (c) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that these rules authorize disclosure without consent;
 - (d) Pursuant to OAR 581-021-0410, file with the U.S. Department of Education a complaint under 34 CFR § 99.64 concerning alleged failures by the agency or institution to comply with the requirements of the Family Educational Rights and Privacy Act; and
 - (e) Obtain a copy of the policy adopted under OAR 581-021-0250.
- (3) The notice must include all of the following:
 - (a) The procedure for exercising the right to inspect and review education records.
 - (b) The procedure for requesting amendment of records under OAR 581-021-0300;
 - (c) Regarding disclosure of education records to school officials and teachers within the education agency whom the agency has determined to have legitimate educational interest, a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest;
- (4) Each educational agency or institution shall annually notify parents and eligible students of what it considers to be directory information and the conditions for disclosure of such information as provided in OAR 581-021-0390.
- (5) Each educational agency or institution shall annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request.
- (6) The notice provided under section (1) of this rule must also indicate the places where copies of the policy adopted under OAR 581-021-0250 are located.

(7) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents and eligible students of their rights;

(8) An agency or institution of elementary or secondary education shall effectively notify parents of students who have a primary or home language other than English.

(9) An educational agency or institution shall effectively notify parents or eligible students who have a disability.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 326.565 & 34 CFR | 99.7

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07; ODE 26-2008, f. 10-23-08, cert. ef. 10-24-08

581-021-0265

Confidentiality of Student Education Records

(1) Each school district shall keep confidential any record maintained on a child with a disability in conformance with OAR 581-021-0220 through 581-021-0440.

(2) Each school district shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(3) One official at each school district shall assume responsibility for ensuring the confidentiality of any personally identifiable information.

(4) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under OAR 581-015-0055 through 581-015-0606 and 581-021-0220 through 581-021-0440.

Stat. Auth.: ORS 343.041, 343.045, 343.055, 34 CFR Sec 99.7

Stats. Implemented: ORS 343.045, 343.155

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0270

Rights of Inspection and Review of Education Records

(1) Except as limited under OAR 581-021-0290, each educational agency or institution shall permit a parent, an eligible student, or a representative of a parent if authorized in writing by the parent, to inspect and review the education records of the student.

(2) The educational agency or institution shall comply with a request for access to records:

(a) Within a reasonable period of time and without unnecessary delay;

(b) For children with disabilities under OAR 581-015-0051, before any meeting regarding an IEP, or any due process hearing, or any resolution session related to a due process hearing; and

(c) In no case more than 45 days after it has received the request.

(3) The educational agency or institution shall respond to the reasonable requests for explanations and interpretations of the records.

(4) If a parent or an eligible student so requests, the educational agency or institution shall give the parent or eligible student a copy of the student's education records pursuant to ORS 192.440, except that no copy of test protocols, test questions and answers, and other documents described in ORS 192.501(4) shall be provided unless authorized by federal law.

(5) The educational agency or institution shall not destroy any education records if there is an outstanding request to inspect and review the records under this rule.

(6) While an education agency or institution is not required to give an eligible student access to treatment records under the definition of "education records" in OAR 581-021-0220(6)(b)(D), the student may, at his or her expense, have those records reviewed by a physician or other appropriate professional of the student's choice.

Stat. Auth.: ORS 192.440, 192.501(4), 326.565 & 34 CFR § 99.10

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0280

Fees for Copies of Education Records

(1) Student records are public records under ORS 192.410 through 192.505 but are exempt from disclosure except as authorized by OAR 581-021-0220 through 581-021-0440.

(2) Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records, an educational agency or institution may charge a fee for a copy of an educational record which is made for the parent or eligible student subject to section (3) of this rule.

(3) Notwithstanding ORS 192.440(3), an educational agency or institution may not charge a fee to search for or to retrieve the education records of a student.

Stat. Auth.: ORS 192.410 - ORS 192.505, ORS 326.565 & 34 CFR § 99.11

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0290

Limitations on the Right to Inspect and Review Records

If the education records of a student contain information on more than one student, the parent or eligible student may inspect, review, or be informed of only the specific information about that student.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.12

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0300

A Parent or Eligible Student's Request for Amendment of a Student's Education Records

(1) If a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he or she may ask the educational agency or institution to amend the record.

(2) The education agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request.

(3) If the educational agency or institution decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing under OAR 581-021-0310.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.20

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0310

Right to a Hearing to Challenge Content

(1) An educational agency or institution shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy or other rights of the student.

(2) If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall:

(a) Amend the record accordingly; and

(b) Inform the parent or eligible student of the amendment in writing.

(3) If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the educational agency or institution, or both.

(4) If an educational agency or institution places a statement in the education records of a student under section (3) of this rule, the agency or institution shall:

(a) Maintain the statement with the contested part of the record for as long as the record is maintained; and

(b) Disclose the statement whenever it discloses the portion of the record to which the statement relates.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.21

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0320

Minimum Requirements for the Conduct of a Hearing

The hearing required by OAR 581-021-0310 must meet at a minimum the following requirements:

(1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.

(2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.

(3) The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

(4) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised under OAR 581-021-0310. The

parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

(5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.

(6) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.22

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-

581-021-0330

Prior Consent to Disclose Information

(1) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in OAR 581-021-0340.

(2) "Signed and dated written consent" under this part may include a record and signature in electronic form that:

- (a) Identifies and authenticates a particular person as the source of the electronic consent; and
- (b) Indicates such person's approval of the information contained in the electronic consent.

(3) The written consent must:

- (a) Specify the records that may be disclosed;
- (b) State the purpose of the disclosure; and
- (c) Identify the party or class of parties to whom the disclosure may be made.

(3) When a disclosure is made under section (1) of this rule:

- (a) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and
- (b) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(4) If a child is enrolled or is going to enroll in a private school that is not located in the child's resident school district, parent consent must be obtained before any personally identifiable

information about the child is released between officials of the school district where the private school is located and the resident school district.

Stat. Auth.: ORS 326.565 & 34 CFR 199.30, 34 CFR 300.622

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0340

Exceptions to Prior Consent

An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by OAR 581-021-0330 if the disclosure meets one or more of the following conditions:

(1) The disclosure is to school board members during executive session pursuant to ORS 332.061, or to other school officials and teachers within the educational agency whom the agency or institution has determined to have legitimate educational interests.

(2) The disclosure is to officials of another school, school system, institution of postsecondary education, education service district, state regional program, or other educational agency that has requested the records and in which the student seeks or intends to enroll, or is enrolled in or receives services from the other agency or institution. The term "receives services" includes, but is not limited to, an evaluation or re-evaluation for purposes of determining whether a student has a disability.

(3) The disclosure is, subject to the requirements of OAR 581-021-0370, to authorized representatives of:

- (a) The Comptroller General of the United States;
- (b) The Secretary of the U.S. Department of Education;
- (c) State and local educational authorities; or
- (d) The Oregon Secretary of State's Audit Division.

(4) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

- (a) Determine eligibility for the aid;
- (b) Determine the amount of the aid;
- (c) Determine the conditions for the aid; or

(d) Enforce the terms and conditions of the aid;

(e) As used in this section, "financial aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an education agency or institution.

(5)(a) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

(A) Develop, validate, or administer predictive tests;

(B) Administer student aid programs; or

(C) Improve instruction.

(b) The agency or institution may disclose information under this section only if:

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted.

(c) For the purposes of this section, the term "organization" includes, but is not limited to, federal, state and local agencies, and independent organizations.

(6) The disclosure is to accrediting organizations to carry out their accrediting functions.

(7) The disclosure is to parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986.

(8) The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the requirements of OAR 581-021-0371.

(9) The disclosure is related to a legal action subject to the conditions of OAR 581-021-0372.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in OAR 581-021-0380.

(11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in OAR 581-021-0390.

(12) The disclosure is to the parent of a student who is not an eligible student or to an eligible student.

(13) The disclosure is to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies subject to conditions described in OAR 581-021-0391.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 326.565, 336.187, 34 CFR 199.31 336.187

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0350

Limitations on the Redisclosure of Information

(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. The officers, employees, and agents of a party that receives information under this section may use the information, but only for the purposes for which the disclosure was made.

(2) Section (1) of this rule does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

(a) The disclosures meets the requirements of OAR 581-021-0340; and

(b) The educational agency or institution has complied with the requirements in OAR 581-021-0400(2).

(3) Section (1) of this rule does not apply to the following:

(a) Disclosures to parents of a dependent student under OAR 581-021-0340(7) or to an eligible student;

(b) Disclosures pursuant to court orders, lawfully issued subpoenas, or legal action under OAR 581-021-0340(8) or (9);

(c) Disclosures of directory information under OAR 581-021-0340(11).

(4) When applicable, an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this rule.

(5) If the Family Policy Compliance Office determines that a third party improperly rediscloses personally identifiable information from education records in violation of paragraph 1, the

educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.33

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0360

Conditions for the Disclosure of Information to Other Educational Agencies or Institutions

(1) An educational agency or institution that discloses an education record under OAR 581-021-0340(2) to officials of another school or school system where the student seeks or intends to enroll shall:

(a) Annually notify parents or eligible students that it forwards education records requested under OAR 581-021-0250(1)(m) and (p) within 10 days of receiving the request;

(b) Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:

(A) The disclosure is initiated by the parent or eligible student; or

(B) The annual notification of the agency or institution under §99.6 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;

(b) Give the parent or eligible student, upon request, a copy of the record that was disclosed; and

(c) Give the parent or eligible student, upon request, an opportunity for a hearing.

(2) An educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

(a) The student is enrolled in or receives services from the other agency or institution; and

(b) The disclosure meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.34

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0370

Conditions for the Disclosure of Information for Federal or State Program Purposes

(1) The officials listed in OAR 581-021-0340(3) shall have access to education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal or state legal requirements which relate to those programs.

(2) Information that is collected under section (1) of this rule must:

(a) Be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to in section (1) of this rule; and

(b) Be destroyed when no longer needed for the purposes listed in section (1) of this rule.

(3) Section (2) of this rule does not apply if:

(a) The parent or eligible student has given written consent for the disclosure under OAR 581-021-0330; or

(b) The collection of personally identifiable information is specifically authorized by state or federal law.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.35

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0371

Conditions for Disclosure of Information to Comply with Judicial Order or Subpoena

The educational agency or institution may disclose information under this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action except as provided below.

(1) Conditions when no notice required:

(2) The educational agency or institution may disclose information under this section without notice to the parent or eligible student if the disclosure is in compliance with:

(a) A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(b) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 326.565 & 34 CFR | 99.31

Stats. Implemented: ORS 326.56

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0372

Conditions for the Disclosure of Information When Legal Action Initiated

(1) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(2) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or the institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

Stat. Auth.: ORS 326.565 & 34 CFR | 99.31

Stats. Implemented: ORS 326.56

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0380

Conditions for the Disclosure of Information in Health and Safety Emergencies

(1) An educational agency or institution shall disclose personally identifiable information from an education record to law enforcement, child protective services, and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

(2) Nothing in this Act or this part shall prevent an educational agency or institution from -

(a) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(b) Disclosing appropriate information maintained under paragraph (2)(a) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(3) Paragraphs (1) and (2) of this section will be strictly construed.

(4) As used in this rule, a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction, or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to ORS 418.750 to 418.760.

(3) Sections (1) and (4) of this rule shall be strictly construed.

Stat. Auth.: ORS 326.565, 336.187 & 34 CFR § 99.36

Stats. Implemented: ORS 336.187 & 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0390

Conditions for the Disclosure of Directory Information

(1) An educational agency or institution may disclose directory information if it has given annual public notice to parents of students in attendance and eligible students in attendance at the educational agency or institution of:

(a) The types of personally identifiable information that the educational agency or institution has designated as directory information;

(b) A parent or eligible student's right to refuse to let the educational agency or institution designate any or all of those types of information about the student as directory information; and

(c) The period of time within which a parent or eligible student has to notify the educational agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(2) An educational agency or institution may disclose directory information about former students without meeting the conditions in section (1) of this rule.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.37

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; EB 20-1995, f. & cert. ef. 7-25-95

581-021-0391

Conditions for the Disclosure of Information to Juvenile Justice Agencies

An educational agency or institution may disclose personally identifiable information to a court and state and local juvenile justice agencies including, but not limited to, law enforcement agencies, juvenile departments and child protective service agencies provided that:

(1) Disclosure relates to the court's or juvenile justice agency's ability to serve the needs of a student prior to the student's adjudication under ORS chapter 419C.

(2) A person to whom personally identifiable information is disclosed under this paragraph shall certify, in writing, that the person will not disclose the information to a third party other than another court or juvenile justice agency or a person or organization providing direct services to the student on behalf of a juvenile justice agency.

Stat. Auth.: ORS 326.565, 336.187 & 34 CFR § 99.

Stats. Implemented: ORS 326.56

Hist.: ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0400

Recordkeeping Requirements

(1) An educational agency or institution shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student:

(a) The agency or institution shall maintain the record with the education records of the student as long as the records are maintained;

(b) For each request or disclosure the record must include:

(A) The parties who have requested or received personally identifiable information from the education records;

(B) The date access was given; and

(C) The legitimate interests the parties had in requesting or obtaining the information.

(2) If an educational agency or institution discloses personally identifiable information from an education record with the understanding authorized under OAR 581-021-0350(2), the record of disclosure required under this section must include:

(a) The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and

(b) The legitimate interests under OAR 581-021-0340 which each of the additional parties has in requesting or obtaining the information.

(3) The following parties may inspect the record relating to each student:

(a) The parent or eligible student;

(b) The school official or his or her assistants who are responsible for the custody of the records;

(c) Those parties authorized in OAR 581-021-0340(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

(4) Section (1) of this rule does not apply if the request was from or the disclosure was to:

(a) The parent or eligible student;

(b) A school official under OAR 581-021-0340(1);

(c) A party with written consent from the parent or eligible student; or

(d) A party seeking directory information.

(e) A party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.32, 34 CFR 300.614

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0410

Filing a Federal Complaint

(1) A person may file a written complaint with the Family Policy Compliance Office, U.S. Department of Education, regarding an alleged violation under the Family Educational Rights and Privacy Act. The office's address is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Ave. SW, Washington, D.C. 20202-5920.

(2) A timely complaint under section (1) of this rule is defined as an allegation of a violation of the Family Educational Rights and Privacy Act that is submitted to the Family Policy Compliance Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonable should have know of the alleged violation.

(3) The Family Policy Compliance Office extends the time limit in section (2) of this rule if the complainant shows that he or she was prevented by circumstances beyond the complainant's control from submitting the matter within the time limit, or for other reasons considered sufficient by the Family Policy Compliance Office.

Stat. Auth.: ORS 326.565 & 34 CFR § 99.63 & 99.64

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94; ODE 8-2007, f. & cert. ef. 3-1-07

581-021-0420

Civil Action

Any person claiming to be aggrieved by the reckless disclosure of personally identifiable information from a student's education records, as prohibited by OAR 581-021-0220 through 581-021-0440, may file a civil action in circuit court pursuant to ORS 30.864.

Stat. Auth.: ORS 30.864 & ORS 326.565

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94

581-021-0430

The Distribution of Rules Relating to Student Records

(1) The State Board of Education shall distribute the administrative rules regarding student education records to all school districts.

(2) School districts shall make those rules available to the public schools in the district and to the public.

Stat. Auth.: ORS 326.565

Stats. Implemented: ORS 326.565

Hist.: EB 31-1993(Temp), f. 10-6-93, cert. ef. 11-6-93; EB 5-1994, f. & cert. ef. 4-29-94